HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24147 of 2006

Dated:20.11.2006

Between:

Medam Venkata Subbamma

…Petitioner

and

The Mandal Revenue Officer,
Kondapuram Mandal, Nellore District.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24147 of 2006

ORDER:

The petitioner allegedly purchased land admeasuring Acs.1.30 cents in Survey No.90/2-2, Acs.1.32 cents in Survey No.91/2 and Acs.3.89 cents in Survey No.100/2-1 situated at Nekunampet Village of Kondapuram Mandal in Nellore District, from Ponthagani Guravaiah, Ismail, Nagesh, Mallesh, Bande Arjuna Rao and Bande Malyadri. However, the Mandal Revenue Officer (MRO) initiated action under the provisions of Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), alleging that the petitioner purchased assigned lands in contravention of Section 3(2) of the Act. The petitioner submitted explanation, *inter alia*, stating that she purchased the property from the title holders and that the land is not an assigned land. She sent an application, and an order was passed on 15.02.2005. The petitioner assailed the same before this Court by filing W.P.No.3162 of 2005, *inter alia*, on the ground that the explanation submitted by her was not considered. Therefore, this Court disposed of the Writ Petition remitting the matter to the MRO directing to consider the explanation submitted by the petitioner. The MRO has now passed the orders vide proceedings in Rc.B.293/2004, dated 14.08.2006, ordering

resumption of the land. The MRO rejected the contention of the petitioner that it is not an assigned land, as the petitioner did not file any documentary evidence. The MRO also relied on the Diglot Register in which the land allegedly owned by the petitioner was shown as the Government land.

Learned Counsel for the petitioner submits that mere reliance on the Diglot Register would not lead to conclusion that the land is an assigned land. He submits that the petitioner's vendors were having absolute title and the petitioner purchased for valid consideration. Alternatively, he submits that even if the land is a Government land, in the absence of any proof of assignment at any point of time to any person, the provisions of the Act cannot be invoked. In such a case, according to the learned Counsel, a serious dispute of title would arise, and on the principle laid down by the Supreme Court in **Govt. of A.P. v. Thummala Krishna Rao**[1] the Government has to seek a title in civil Court. **Opposing** the Writ Petition, the learned Assistant Government Pleader for Revenue (General-A) submits that there is an effective alternative remedy by way of an appeal under Section 4-A of the Act, and therefore, the Writ Petition cannot be entertained.

The MRO has passed a detailed order considering the explanation submitted by the petitioner on 08.10.2005. The MRO has also appreciated the documentary evidence produced by the petitioner and also the relevant revenue records including the Diglot Register to come to the conclusion that the land in Survey Nos.90/2-2, 91/2 and 100/2-1 is a Government land, and that the petitioner purchased from the assignees. The petitioner objects to this order on many grounds as noticed hereinabove. The statute, which is invoked for resumption of the land, provides for alternative remedy and if the issues raised by the petitioner are adjudicated ignoring the alternative remedy provided by the statute, it might result in hardship to the interest of the petitioner as well. Therefore, this Court is not inclined to go into this. The petitioner may approach the Revenue Divisional Officer and file an appeal within a period of one week from the date of receipt of a copy of this order. As and when such appeal is filed, the Revenue Divisional Officer may decide the question whether the land allegedly purchased by the petitioner and is in possession, is assigned land or not, as a preliminary issue, and also dispose of the appeal within a period of six weeks from the date of submission of the appeal.

The Writ Petition, with the above observations and directions, is

accordingly disposed of. No costs.

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(V.V.S.RAO, J)

20.11.2006
Note: Issue C.C in two days.
B/o.
vs

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[1] AIR 1982 (SC) 1081